

**EXHIBIT “A”**  
**ORIGINAL PETITION**

2013-41789 / Court: 011

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Chris Daniel - District Clerk  
Harris County  
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By: Nelson Cuero

CAUSE NO. \_\_\_\_\_

**BUDDY TRAHAN**

**Plaintiff,**

**vs.**

**LIBERTY MUTUAL INSURANCE  
COMPANY**

**Defendant.**

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**IN THE DISTRICT COURT OF**

**HARRIS COUNTY, TEXAS**

**\_\_\_\_ JUDICIAL DISTRICT**

**PLAINTIFF'S ORIGINAL PETITION**

Plaintiff Buddy Trahan ("Trahan" or "Plaintiff") files this Original Petition against Liberty Mutual Insurance Company ("Liberty" or "Defendant").

**I. PARTIES**

1. Plaintiff Buddy Trahan is an individual residing in Katy, Fort Bend County, Texas.
2. Defendant Liberty is a foreign corporation who may be served with process by serving its registered agent, Corporation Service Company at 211 East 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.

**II. DISCOVERY CONTROL PLAN**

3. Pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, discovery is intended to be conducted under Level III of this Rule.

**III. JURISDICTION AND VENUE**

4. Venue for this action is also proper in Harris County, Texas because it is the county where all or a substantial part of the events giving rise to the claim occurred. TEX. CIV. PRAC. & REM. CODE §15.002(a)(1). The amount in controversy is within the minimum jurisdictional limits of this Court.



#### IV. BACKGROUND

5. On or about April 20, 2010, Trahan was injured while on board the *Deepwater Horizon* when it exploded. Trahan was on the vessel working in the course and scope of his employment as an Operations Asset Manager for Transocean Offshore Deepwater Drilling, Inc. As a result of the accident, Trahan sustained personal injuries and damages.

6. Liberty was the workers' compensation carrier for Transocean entities, including Transocean Offshore Deepwater Drilling, Inc. Therefore, Liberty paid and continues to pay workers' compensation benefits on behalf of Trahan under its policy of insurance with Transocean. To date, Liberty claims to have paid approximately \$256,986.46 in benefits on behalf of Trahan.

7. As a result of the explosion, Trahan filed a lawsuit against BP, Plc, BP America, Inc., BP Corporation North America, Inc., BP Company North America, Inc., BP Products North America, Inc., BP Exploration & Production, Inc., BP America Production Company, Halliburton Energy Services, Inc., Cameron International Corporation, Sperry-Sun Drilling Services, Inc., M-I L.L.C., Weatherford International, Ltd., Anadarko Petroleum Corporation, and Dril-Quip, Inc. for his damages.

8. Recently, Trahan confidentially settled his claims with BP Exploration & Production, Inc. and/or BP American Production Company and Transocean Offshore Deepwater Drilling, Inc. Liberty has asserted a lien in the approximate amount of \$256,986.96 against Mr. Trahan's recovery in this matter. Trahan's position is that Liberty is not entitled to repayment of past benefits or to a future credit because an enforceable waiver of subrogation precludes Liberty from making any recovery. Liberty contractually agreed it would not seek to recover any payments from any person or organization named in the Schedule of its Workers' Compensation and Employer's Liability Policy. The subject insurance policy applied to work performed under a written contract that required Transocean to obtain the agreement. The Drilling Contract between

Transocean and BP expressly prohibited Transocean's underwriters and insurance companies from any right of subrogation against BP, its subsidiaries, co-owners, and joint-venturers, if any, and their agents, employees, officers, invitees, servants, contractors, sub-contractors, insurers, and underwriters.

9. Liberty's request for subrogation and/or reimbursement from Trahan's settlement proceeds has wrongfully prevented Trahan from receiving all of his settlement proceeds. Liberty has no reasonable basis under Texas law to make such a claim in light of the governing Workers' Compensation and Employer's Liability Policy and Drilling Contract.

#### **V. DECLARATORY JUDGMENT**

10. A declaratory judgment is appropriate because a justiciable controversy exists as to the rights and status of the parties, and the controversy will be resolved by the declaration sought. Tex. Civ. Prac. Rem. Code §37.001, *et seq.* Accordingly, Trahan seeks a declaratory judgment against Liberty that: (1) Liberty contractually waived its rights under Texas Labor Code §417.001, *et. seq.*, to recover from Trahan the amount of benefits it has paid in the past, or a credit against future benefits; (2) that Liberty is not entitled to reimbursement for the payment of medical expenses out of the settlement proceeds recovered by Trahan, pursuant to Texas Labor Code § 417.002(a); (3) Liberty is not entitled to a statutory credit for the future payment of medical benefits pursuant to Texas Labor Code § 417.002(b); and (4) Liberty is required to continue paying benefits to Trahan pursuant to applicable Texas Law.

#### **VI. BAD FAITH**

11. Liberty is liable to Trahan for breach of the duty of good faith and fair dealing and violations of the Texas Insurance Code. Liberty's acts and/or omissions were a producing and/or proximate cause of Trahan's injuries and damages.

**VII. REQUEST FOR ATTORNEY FEES AND COSTS**

12. Trahan is entitled to recover costs and reasonable and necessary attorney fees for the prosecution of this action and any subsequent appeal from this Court's judgment to the Court of Appeals and/or the Texas Supreme Court.

**VIII. REQUEST FOR JURY TRIAL**

13. Plaintiff in the above styled and numbered cause hereby respectfully request a trial by jury and have tendered the jury fee.

**IX. INITIAL DISCLOSURES**

14. Defendant is requested to disclose, within 50 days of service of this request, the information or material described in Rule 194 of the Texas Rules of Civil Procedure.

**X. REQUEST FOR RELIEF**

For the stated reasons, Plaintiff Buddy Trahan prays that Defendant Liberty Mutual Insurance Company be cited to appear and answer herein as required by law, and that upon final hearing, Plaintiff be awarded judgment against Defendants for the following relief:

- a. A declaratory judgment that Liberty contractually waived its to recover from Trahan the amount of benefits it has paid in the past, or a credit against future benefits; (2) Liberty is not entitled to reimbursement for the payment of benefits out of the settlement proceeds recovered by Trahan; (3) Liberty is not entitled to a statutory credit against Trahan for the future payment of medical benefits; and (4) Liberty is required to continue paying benefits to Trahan pursuant to applicable Texas law.
- b. Actual damages;
- c. Special damages;
- d. Exemplary damages;
- e. Attorney fees;
- f. Pre and post-judgment interest as allowed by law;
- g. Costs of court; and

- h. Such other and further relief to which the Plaintiff may show himself justly entitled.

Respectfully submitted,

**Lubel Voyles LLP**

By: /s/ Lance H. Lubel

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**ATTORNEYS FOR PLAINTIFF**



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.  
Witness my official hand and seal of office  
this October 3, 2013

Certified Document Number: 56655518 Total Pages: 5

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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